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TAGS: [PREL](#) [PGOV](#) [MARR](#) [MOPS](#) [IZ](#) [NATO](#)
SUBJECT: NATO REPS OBTAIN TENTATIVE AGREEMENT ON
JURISDICTIONAL IMMUNITIES WITH IRAQ

Classified By: Pol-Mil Minister Counselor Michael Corbin for reasons 1.
4 (b) and (d).

11. (S) Summary: NATO Assistant Secretary General for Operations Martin Howard conducted a successful trip to Baghdad on June 13 - 14, obtaining support from the Government of Iraq's authorized negotiator for new language in the proposed NATO-GOI agreement. This new language would provide NATO Training Mission-Iraq (NTM-I) personnel with jurisdictional immunities similar in many respects to those in the U.S.-Iraq Security Agreement. Howard has returned to Brussels and is seeking North Atlantic Council (NAC) approval in principle for the immunities portion of the agreement. The Iraqi Minister of Defense's legal advisor plans to travel to Brussels next week to finalize the remaining articles of the agreement, which Howard will then submit for final NAC approval. The Iraqi Minister of Defense is then authorized to sign the agreement with the NATO Secretary General and once signed, according to Howard, the document would provide sufficient Iraqi commitment for NATO members to continue the training mission in Iraq, even if the GOI decides it must then go to the Council of Representatives for approval and President for ratification. Support for NTM-I is high and at this point the only challenge we see is timing as NATO wishes to complete the long-term Agreement before the next rotation of NTM-I personnel on July 8. End Summary.

12. (S) NATO Assistant Secretary General for Operations Martin Howard visited Iraq on June 13 - 14 to negotiate an agreement with the Government of Iraq (GOI) for the continuation of NATO Training Mission-Iraq (NTM-I). Howard's key meeting was with Iraqi Minister of Defense Abdal-Qadir, in which the two officials and their legal advisors agreed on new text for Article 11 of the proposed NATO-GOI agreement, the most challenging and politically sensitive article as it addresses jurisdictional immunities. The new text gives the GOI jurisdiction over NATO personnel only "for grave intentional crimes and crimes of gross negligence, when such crimes are committed outside agreed areas and facilities and outside duty status." The article gives exclusive jurisdiction over NTM-I personnel to the sending NATO member state in all other cases, providing NATO personnel with jurisdictional immunities roughly equivalent to those in the U.S.-Iraq Security Agreement. Of notable difference, the U.S.-Iraq Security Agreement affords the GOI primary jurisdiction over members of the U.S. Forces and the civilian component for "grave premeditated felonies"-a term to be defined by the Iraq-US Joint Subcommittee on Jurisdiction-when such crimes are committed outside agreed facilities and areas and outside duty status. Although the specific offenses covered by the draft NATO text are also undefined, the language concerning "crimes of gross negligence" in addition to "grave international crimes" may allow for broader Iraqi jurisdiction than would likely be the case under the U.S.-Iraq Security Agreement.

¶3. (S) Howard told NATO Ambassadors at a lunch just following his meeting with Abd al-Qadir that he is satisfied and confident that NATO now has a solid proposal and clear way forward from the GOI. Howard has taken the new text of Article 11 back to Brussels and is circulating it for members' "approval in principle" under silence procedure from June 16 through 18. He also briefs the North Atlantic Council (NAC) on his successful visit to Iraq at the council's weekly meeting on June 17. Abd al-Qadir will send the new article's text as part of a new draft of the overall agreement to Brussels probably within the next week. At Howard's invitation and with Abd al-Qadir's support, MOD Legal Advisor Dr. Ghaleb plans to travel to Brussels during the week of June 22 to finalize the remaining articles of the agreement. Dr. Ghaleb told EmbOffs on June 17 that he has submitted his visa application and that, in his view, the hard work is already complete. Once the rest of the articles are finalized, Howard will seek formal NAC approval for the negotiated agreement.

¶4. (S) Prime Minister Maliki told the Ambassador on June 13 that Abd al-Qadir is authorized by the Iraqi Cabinet to both negotiate and sign the agreement with NATO, a message echoed by other GOI leaders and by Abd al-Qadir himself to Howard. The agreement will likely require ratification by the Council of Representatives (COR), but that will ultimately be the decision of the Cabinet. There is a strong consensus that Abd al-Qadir can sign the agreement on behalf of the Iraqi government with NATO before returning it to the Cabinet for the approval process. EmbOffs find throughout their

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engagements with GOI officials that overall views toward NTM-I are highly positive and should facilitate support for the long-term agreement by all necessary authorities. Negotiations continue to move at a measured pace as they require the attention of a few key Iraqi leaders in a series of engagements between Brussels and Baghdad. Completion of the long-term agreement before the next rotation of NTM-I personnel on July 8 is not guaranteed, but all parties are working toward that goal.

¶5. (S) According to Howard, the official signing between the GOI's designated representative and the NATO Secretary General will constitute Iraqi commitment to a binding international agreement sufficient for NATO to continue with its mission in Iraq. It is up to the GOI to decide what is necessary to implement the agreement internally, including whether it must be approved by the COR. The NATO representatives and NATO ambassadors agreed on the high likelihood the Cabinet will decide to submit the agreement for ratification to the COR, as Abd al-Qadir has alluded he fully expects. The NATO ambassadors agreed with Howard and NTM-I commander LTG Helmick's requests that they continue to educate GOI officials about the value of the NATO training mission during their regular engagements.

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